

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

RECEIVED BY E-MAIL

DANA CLAUSEN,

NO. 85200-6

Respondent,

SECOND
STATEMENT OF
ADDITIONAL
AUTHORITIES

v.

ICICLE SEAFOODS, INC.,

Appellant.

COMES NOW the respondent Dana Clausen and submits the following additional authorities to the Court pursuant to RAP 10.8 in response to Chief Justice Madsen's question during oral argument regarding whether there were other cases in which a court had held that attorney fees were treated as part of a compensatory award in calculating the ratio of punitive damages to compensatory damages:

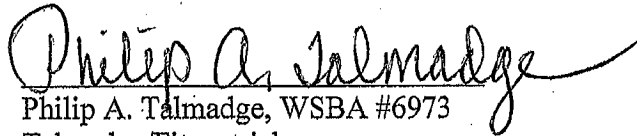
- *Lawlor v. North American Corp. of Illinois*, 949 N.E.2d 155, 177-78 (Ill. App. 2011) (fees are considered part of compensatory award in setting ratio for punitive damages, following *Blount*);
- *Blount v. Stroud*, 915 N.E.2d 925, 944 (Ill. App. 2009) (in civil rights employment case, courts must consider attorney fees as part of compensatory award when considering the punitive damages ratio; "... the majority of the courts across the country that have considered this issue have agreed that an award of attorney fees should be taken into account as part of the compensatory damages factor in the *Gore* analysis");
- *Action Marine, Inc. v. Continental Carbon, Inc.*, 481 F.3d 1302, 1321 (11th Cir. 2007) (applying Georgia law, court holds that fee award was compensatory in making comparison with the punitive damage award);

ORIGINAL

- *Gallatin Fuels, Inc. v. Westchester Fire Ins. Co.*, 244 Fed. Appx. 424 (3rd Cir. 2007) (attorney fees in insurance bad faith claim are part of compensatory award);
- *Willow Inn, Inc. v. Pub. Service Mutual Ins. Co.*, 399 F.3d 224, 235-36 (3rd Cir. 2005) (in insurance bad faith case, plaintiff recovered \$2,000, incurring more than \$135,000 in fees and costs; court upheld punitive damage award of \$150,000 because attorney fees were part of compensatory facet of recovery).

DATED this 16th day of September, 2011.

Respectfully submitted,



Philip A. Talmadge, WSBA #6973
Talmadge/Fitzpatrick
18010 Southcenter Parkway
Tukwila, WA 98188
(206) 574-6661

James P. Jacobsen, WSBA #16331
Beard Stacey & Jacobsen LLP
4039 21st Avenue W, Suite 401
Seattle, WA 98199-1252
(206) 282-3100

Lawrence N. Curtis, LA Bar #4678
Larry Curtis, APLC
300 Rue Beauregard, Bldg C
PO Box 80247
Lafayette, LA 70508
(337) 235-1825
Attorneys for Respondent Dana Clausen

DECLARATION OF SERVICE

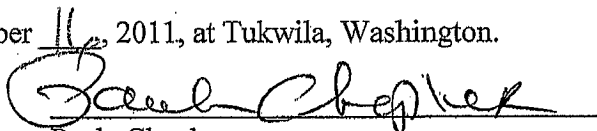
On said day below I emailed and deposited with the US Postal Service a true and accurate copy of the following document: Second Statement of Additional Authorities in Supreme Court Cause No. 85200-6 to the following:

Michael A. Barcott Holmes Weddle & Barcott 999 3 rd Avenue, Suite 2600 Seattle, WA 98104-4011	James P. Jacobsen Beard Stacey & Jacobsen LLP 4039 21 st Avenue West, Suite 401 Seattle, WA 98199-1252
Lawrence N. Curtis PO Box 80247 Lafayette, LA 70508	Lincoln Sieler Friedman Rubin 601 Union Street, Suite 3100 Seattle, WA 98101-1374
David W. Robertson 727 E. Dean Keeton Street Austin, TX 78705	Thaddeus O'Sullivan K&L Gates 618 W. Riverside Avenue, Suite 300 Spokane, WA 99201-5102

Original efiled with:
Washington Supreme Court
Clerk's Office
415 12th Street West
Olympia, WA 98504-0929

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: September 11, 2011, at Tukwila, Washington.


Paula Chapler
Talmadge/Fitzpatrick